

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HASSAN FATEEN ELAMIN,

Defendant-Appellant.

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UNPUBLISHED

May 2, 1997

No. 186820

Recorder's Court

LC No. 94-009257

Before: McDonald, P.J., and Reilly and O'Connell, JJ.

PER CURIAM.

Defendant was convicted at a bench trial of possession with intent to deliver marijuana, MCL 331.7401; MSA 14.15(7401), under an aiding and abetting theory. He was sentenced to one to fifteen years' imprisonment as a fourth-time habitual offender, MCL 769.12 - 769.13; MSA 28.1084 - 28.1085. He appeals as of right. We affirm.

Defendant argues on appeal that there was not sufficient evidence of possession to support his conviction. We must determine whether, when the evidence is viewed in a light most favorable to the prosecution, a rational trier of fact could have concluded that the essential elements of the crime were proven beyond a reasonable doubt. *People v Patterson*, 428 Mich 502; 514-515; 410 NW2d 733 (1987).

"Possession may be established by evidence that defendant exercised control or had the right to exercise control of the substance and knew that it was present." *People v Richardson*, 139 Mich App 622, 625; 362 NW2d 853 (1984). Knowledge of the presence of the substance is an essential element of the offense. *People v Harrington*, 396 Mich 33; 238 NW2d 20 (1976).

The police were originally called to defendant's home for a domestic disturbance. Defendant wanted the police to remove his stepsons from his home. All of the witnesses that defendant produced at trial claimed that defendant owned the home where the marijuana was discovered. Therefore, because defendant owned the property where the marijuana was found, there was evidence that he had control over it.

A Detroit police officer testified that defendant confirmed that he was aware of the marijuana growing on his property. The police confiscated close to 4,000 grams of marijuana. One of the police officers testified that some of the plants were nine feet tall. Another police officer testified that the marijuana in the back yard was planted in rows like a crop.<sup>1</sup> Considering the quantity of the plants, the way they were planted, and the fact that defendant admitted that he knew about the marijuana, a rational trier of fact could find beyond a reasonable doubt that defendant knowingly possessed the marijuana.

Affirmed.

/s/ Gary R. McDonald  
/s/ Maureen Pulte Reilly  
/s/ Peter D. O'Connell

<sup>1</sup> Marijuana was discovered growing in defendant's back yard as well as in a grow room in his basement.